AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, APRIL 3, 2007.

Board Members Present: John F. Coates, Chairman

Steven E. Nixon, Vice-Chairman

Larry W. Aylor William C. Chase, Jr. Sue D. Hansohn Brad C. Rosenberger Steven L. Walker

Staff Present: Frank T. Bossio, County Administrator

J. David Maddox, County Attorney John C. Egertson, Planning Director Sam McLearen, Zoning Administrator

Peggy S. Crane, Deputy Clerk

CALL TO ORDER

Mr. Coates, Chairman, called the meeting to order at 7:00 pm.

CITIZEN FORUM

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

Mr. D. R. Griffith, Stevensburg District, stated that when a county approved a project with no infrastructure, it became liable for the infrastructure. He expressed his continued concern regarding the Bowen tract and felt the County had to provide water and sewer to that site. He also expressed his concern regarding the lack of water for the new high school.

Mr. George Bryson, Jefferson District, stated that he continued to come before the Board because of the lack of action regarding the abuse he had been receiving from State, County and Town officials.

With no further comments, Mr. Coates closed the Citizen Forum.

AGENDA ADDITIONS AND/OR DELETIONS

Mr. Nixon moved, seconded by Mr. Aylor, to approve the agenda as presented.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker Motion carried 7 to 0.

PUBLIC HEARING (S) - NONE

NEW PLANNING COMMISSION BUSINESS

<u>CASE NO. Z-420-07-1</u>. Request by Culpeper Lessor 2007-1 LLC/Terremark Worldwide, Inc. to rezone 30.12 acres from A-1 (Agricultural) and CS (Commercial Service) to LI (Light Industrial). The Comprehensive Plan designates this area as Industrial but does not indicate specific densities. The property is located off Route 15/29 and Route 790 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 51/83A1, 83A2.

Mr. Sam McLearen, Zoning Administrator, informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found the rezoning request to be consistent with the Comprehensive Plan and in the best interest of Culpeper County. He said the Planning Commission was recommending to the Board of Supervisors that the rezoning be approved.

Mr. John C. Egertson, Planning Director, displayed a copy of a map that highlighted the location of the parcel and the adjacent Light Industrial property. He said that Terremark Worldwide, Inc., was proposing to construct a data center on Technology Drive adjacent to the Germanna Center for Applied Technology. The project would be built in phases, but would ultimately result in a two-story office building, up to five data center buildings, as many as nine satellite dish/dome structures, and related parking and a gatehouse. He said that approximately 250 employees were anticipated.

Mr. Egertson stated that the property consisted of two parcels totaling 30 acres, with 20 acres of the site currently zoned CS (Commercial Service), and the request was to rezone the entire 30 acres to LI (Light Industrial). He said the request was fully supported by the Comprehensive Plan which designated the area for industrial use and also identified a technology zone that had been established. He noted that Terremark would be a perfect fit in this location with the Germanna Center and S.W.I.F.T. as neighbors,

Mr. Egertson commended the applicants and their consultants for a complete and well-put together application. He said the Board had been provided with a narrative, a set of proffers, some preliminary building elevations, and a four-page zoning exhibit. The current materials were fully responsive to all comments made in the staff report. He stated that:

• The rezoning exhibit now included an additional page from the original submission, which provided the site layout displayed on the screen and which depicted the total development of the site in the long term.

- The narrative and the proffers now include: (1) Requirements for security fencing that would be black and would include landscaping; (2) the satellite dishes and domes would be one solid color, which was anticipated to be white; and (3) in response to VDOT comments, an additional lane would be constructed on a portion of Technology Drive to accommodate stacking at the entrance to the site. Also, the shipping/receiving entrance had been reconfigured in accordance with VDOT's recommendation, and a \$25,000 cash proffer had been provided to assist with construction of a turn lane at Technology Drive to McDevitt Drive. Other proffers included: Use limitations, a commitment to the conceptual plan, a limitation of access only to Technology Drive, an agreement to analyze the site for opportunities to implement low impact development techniques, and a restriction against any signage on the satellite dishes.
- Minor ordinance modifications were proposed as part of the proffers and they were supported by staff. These modifications would apply only to this property and included a reduction of setback strictly for the gatehouse, which allowed for the secure entry point, and also a reduction in parking requirements.
- The project would be served with public water and sewer.

Mr. Egertson stated that all of the staff concerns, VDOT concerns, and issues initially identified had been well addressed. He said the application was fully compliant with the Comprehensive Plan, and it was recommended for approval.

Mr. Martin Crahan, Bowman Consulting Group, stated he was representing the applicant as its planner and engineer. He introduced Mr. Steve Grant of Bowman Consulting, and Mr. Richard Leverich, also representing the applicant. He stated he would add to Mr. Egertson's excellent summary of the application that his group had done thorough environmental studies on the site. He also stated that they were in the process of a wetland study with the Corps of Engineers and DEQ, and they would preserve approximately 87 percent of the small amount of wetlands, approximately 91/100 of an acre, as well as obtain a permit from the Corps of Engineers for a road crossing primarily in one location. He said that they had conducted a threatened and endangered species study working with the State, and there were no threatened or endangered species on the site. He added that they had done a historical resources study, working with the Natural Heritage Map of Culpeper County and the State Department of Cultural Resources and

found no natural resources on the site. He asked for the Board's approval of the rezoning of the two parcels as requested by the applicant.

Mr. Coates opened the public hearing and called for public comments.

There were none, and the public hearing was closed.

Mr. Chase moved, seconded by Mr. Walker, to approve the rezoning request as recommended with the accompanying proffers.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker Motion carried 7 to 0.

<u>CASE NO. U-2118-07-1</u>. Request by Culpeper Lessor 2007-1 LLC/Terremark Worldwide, Inc. for approval of a use permit to allow construction of multiple communication antennae up to 80 feet in height. The property is located off Route 15/29 and Route 790 in the Stevensburg Magisterial District and contains 30.12 acres. Tax Map/Parcel Nos. 51/83A1, 83A2.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found the use permit request to be consistent with Article 17 of the Zoning Ordinance with the attached conditions. He said the Planning Commission was recommending to the Board of Supervisors that the use permit be approved with the attached conditions.

Mr. Egertson displayed a copy of the map that highlighted the location of the property.

He stated that as part of the data center project, Terremark had a need for up to nine satellite dishes, each of which would be inside a dome structure, with a maximum height of 80 feet each for the overall structures.

Mr. Egertson once again commended the applicants for a complete and detailed application package and stated that all comments in the staff report had been addressed prior to the Planning Commission's recommendation for approval.

Mr. Egertson provided the following information:

• The structures would be one solid color, which was anticipated to be white, and all nine would be the same color.

- A detail of the proposed berm and landscaping had been provided as a part of the use permit package.
- Photo simulations of the structures from the three locations had been displayed.
- The structures were not towers that could be treated like typical cell tower applications. Co-location on these structures was out of the question for both practical and security reasons and, because of that, many of the provisions of Article 17 regarding telecom towers and much of Chapter 6B of the Comprehensive Plan regarding wireless communications were not applicable to this request.
- These structures were critical to the Terremark project. The dome covers greatly improve the appearance of the dishes.
- Mr. Egertson stated that the use permit conditions proposed were entirely appropriate, and staff recommended approval as consistent with Article 17 of the Zoning Ordinance, with the conditions proposed.
- Mr. Martin Crahan, representing the applicant, stated he would be glad to answer any questions.
 - Mr. Coates opened the public hearing and called for public comments.
- Ms. Gail Lord asked whether the communication antennas would have an effect on other communications media in the area.
- Mr. Richard Leverich, General Manager for the Terremark project, replied that the antennas would be directed approximately 40 to 60 degrees upward, their directed energy was extremely low, and the energy received was even lower so there would be no interference in any cell phone or telephone region.
- Mr. Jack Rhodes asked for reassurance that the green trees to be planted around the dome structures would not interfere with the view of the Blue Ridge Mountains.
- Mr. Crahan replied that a landscaping plan would be submitted along with the site plan that would meet, and actually exceed, the County requirements for landscaping, percentage of tree cover, etc. He stated that a security berm would completely surround the outside edge of the site, with the domes inside the security berm, and landscaping would be planted all around the inside slope. He said that the security berm would actually hide the domes more than shown in the photographs.
 - Mr. George Bryson asked how high the trees would have to be to block the domes.

With no further comments, Mr. Coates closed the public hearing.

Mr. Coates stated that the applicant had endeavored to address Mr. Bryson's question regarding the shielding of the domes. He pointed out that in addition to the berm, the site would be regraded and would be located between S.W.I.F.T. and Germanna Tech Center.

Mr. Leverich agreed with Mr. Coates' comments. He stated that they would try very hard to depress the site as much as possible, and the domes on the northwest side would be lower, but the ones on the south side would be more visible. He added that the domes on the south side would be constructed last if at all. He emphasized that it was the applicant's intention to hide as much of the site as possible from the public.

Mr. Chase moved, seconded by Mrs. Hansohn, to approve the use permit with the conditions.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker Motion carried 7 to 0.

<u>AMENDMENT TO ARTICLE 8A OF THE ZONING ORDINANCE – FLOOD PLAIN</u>
<u>OVERLAY DISTRICT.</u> The Planning Commission will consider minor amendments to Article 8A-addressing record keeping, deleting conflicting provisions, and establishing the date of official FLOOD PLAIN maps provided by the Federal Emergency Management Agency (FEMA).

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found these proposed amendments to be appropriate. He said the Planning Commission was recommending to the Board of Supervisors that these amendments to Article 8A. Floodplain Overlay District be adopted.

Mr. Egertson explained that the proposed changes to Article 8A were minor amendments. He said the current floodplain maps for the County were produced by FEMA in 1987, were recently updated by FEMA, and as a consequence, the County's ordinance needed to be revised. He noted that the amendments also contained minor changes suggested by the Department of Conservation and Recreation, such as:

- On page 2 A statement that the County's records were being maintained by the Zoning Administrator.
- At the bottom of page 4 and top of page 5 The new effective date for the County's FEMA floodplain maps had been inserted.
- On the top of page 7 A correction to an agency reference had been made.
- On page 10 Conflicting language with text directly above it had been removed.
- On page 12 Under "Variances", the word "hardship" has been changed to "exceptional hardship" to justify variances.

Mr. Egertson stated that FEMA officials had reviewed these changes and informed the County that the changes were in full compliance. He said the changes were not substantial and recommended the ordinance be adopted.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mrs. Hansohn asked whether the Planning Department or the Health Department used the ordinance when someone was applying to build a house. Mr. Egertson replied that the Planning Department implemented the ordinance as part of the zoning permit process. He stated that they referred to the floodplain maps there were provided by FEMA and if, there were any questions, engineering data was obtained. He said the ordinance prohibited any construction in the floodplain, and drainfields were required to be set back 100 feet from the floodplain. Mrs. Hansohn stated she was aware of a house that was built in a floodplain, and she would discuss it with Mr. Egertson at a later time.

Mr. Nixon moved, seconded by Mr. Chase, to approve the amendments to Article 8A of the Zoning Ordinance.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker Motion carried 7 to 0.

<u>CASE NO. Z-333-07-2</u>. The Board of Supervisors will consider a request by Allied Concrete Company to amend a proffer Agreement originally approved by the Board of Supervisors on August 8, 1995. The amendment proposes to modify certain utility easements provided for at that time. Tax Map/Parcel Nos. 42/37A and 37A1.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this proffer amendment to be appropriate. He said the Planning Commission was recommending to the Board of Supervisors that the proffer amendment be adopted.

Mr. Egertson stated that the zoning case was a rezoning of the Bennett property and, as a part of the rezoning of that property to Heavy Industrial, there was a set of proffers that were in the form of a recorded agreement. Within that agreement, there were a number of utility easements that were promised to the County for recordation as part of the plat when the property was subdivided. He noted that since that time, Allied Concrete had purchased the property and gone through a preliminary plan process for subdividing the property. He stated they had constructed a road as was proffered on the property and were ready to record the final plat for the subdivision. However, based on changes that had taken place over the past 12 years and after discussions with the County's Environmental Services Department, a number of those proffered utility easements needed to be changed from a practical standpoint. Mr. Egertson emphasized that the primary requests were from the County, rather than from the applicant.

Mr. Egertson displayed a plat of the property and indicated that the proffered road, or Bennett Road, basically bisected the property. He explained that the County had plans to run the water line to the high school along the alignment of that road and would require an easement, and the County proposed to add that to the proffered agreement. He pointed out that the blue line ran to the right and between Lots 7 and 8 and under Route 29, and that easement also needed to be established since it was not part of the original proffers. He indicated that a pump station located in the upper right-hand corner of the plat was originally proffered, which the County would not need and would be deleted from these proffers. He also indicated a line around the perimeter of the property that was a utility easement that was proffered and would remain to allow utilities other than just water and sewer.

Mr. Egertson stated that the bottom line was that all of the utility easements the County would require and would like to have added to the plat had been willingly added to the plat by Allied Concrete. He said the proposed proffer amendment reflected all the

easements the County would require, and he was recommending approval of the modification of the proffers.

Mr. Nixon asked whether Allied Concrete had agreed to donate any property the County may need for the overpass at Routes 29 and 666. Mr. Egertson replied there was no dedication on the plat, but he had been in extensive discussions with Allied Concrete and they were aware there was no dedication on the plat. He pointed out that there was significant right-of-way already in place that would accommodate a diamond interchange and additional right-of-way may be needed for an overpass.

Mr. Nixon asked whether it would be appropriate to obtain a statement from Allied Concrete indicating they would be willing to work with the County in that regard so there would be a document on file. Mr. Egertson replied that would be a question that would be more appropriate to ask the applicant.

Mr. Richard Cogan, representing the applicant, stated that the applicant had already dedicated a significant strip of land to VDOT from north of Bennett Road to the end of the Allied Concrete property to allow VDOT to eventually four-lane Route 666. He said he had met with Mr. Marshall Baron from the Culpeper District Office, regarding a future cloverleaf, but he did not pursue it, so he had no plans to do any dedication for that purpose. He said the applicant had expressed his desire to cooperate with the County in every way possible and that was one of the reasons for the amendment to the proffers. He pointed out that County staff had precipitated all of the changes to the proffers regarding utilities.

After several questions from Mr. Nixon, Mr. Cogan clarified that an area in the corner of the plat had already been established for additional right-of-way.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Aylor, to approve proposed amendment to the proffers.

Mr. Coates called for voice vote.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker Motion carried 7 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn at 7:40 p.m.

Peggy S. Crane, CMC Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio, Clerk to the Board

APPROVED: <u>May 1, 2007</u>